

UNITED STATES DISTRICT COURT
for the

Western District of North Carolina

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of the defendant the Director of the Bureau of Prisons the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 31 Amended Offense Level: 29
Criminal History Category: III Criminal History Category: III
Previous Guideline Range: 240 to 240 months Amended Guideline Range: 240 to 240 months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- The reduced sentence is within the amended guideline range.
 - The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.
 - Other (explain): No reduction is authorized because Defendant's original sentence was "based on" a departure from the statutory mandatory minimum and not on a sentencing range lowered by Amendment 706. See United States v. Hood, --- F.3d ----, 2009 WL 416979 (4th Cir. Feb. 20, 2009).

III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated 02/07/1997 shall remain in effect.

IT IS SO ORDERED.

Order Date: February 24, 2009

Effective Date: _____
(if different from order date)

Frank D. Whitney